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9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 CARY J. PICKETT,

12 Plaintiff,

13 v.

14 VALDEZ, *et al.*,

15 Defendants.

Case No. 3:17-cv-00567-MMD-WGC

**ORDER GRANTING
DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO RESPOND
TO PLAINTIFF'S MOTION FOR LEAVE
TO FILE AN AMENDED COMPLAINT
(First Request)**

16 Defendant, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada,
17 and Gerri Lynn Hardcastle, Deputy Attorney General, hereby move this Honorable Court for an
18 enlargement of time to respond to Plaintiff's Motion for Leave to File Amended Complaints at ECF No.
19 32.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. RELEVANT FACTS AND PROCEDURAL HISTORY**

22 This is a *pro se* civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 4 at 1. Plaintiff, Cary
23 J. Pickett (Plaintiff), is an inmate in the lawful custody of the Nevada Department of Corrections
24 (NDOC). *Id.* Following screening, Plaintiff is proceeding on a single claim of retaliation. *Id.* at 6.

25 Currently pending before this Honorable Court is Plaintiff's Motion for Leave to File Amended
26 Complaints at ECF No. 32. Defendant's deadline to respond is today, June 20, 2019. Unfortunately,
27 Defendant is unable to comply with this deadline.

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1 As the docket shows, current counsel became responsible for representing the Defendant only
2 two (2) days ago, June 18, 2019. ECF No. 37.¹ Counsel has not yet had the opportunity to familiarize
3 herself the facts and allegations of this case, but reassignment of counsel was necessary, because several
4 attorneys in the Public Safety Division have recently left the Office of the Attorney General, and those
5 attorneys have not yet been replaced. The Public Safety Division is therefore severely short-staffed at the
6 present time. The burden this has placed on the attorneys remaining in the division, including Defendant's
7 counsel, is currently overwhelming. Consequently, Defendant respectfully requests that this Honorable
8 Court allow him an extra thirty (30) days, or up to and including Friday, July 19, 2019.

9 **II. LEGAL STANDARD**

10 District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v.*
11 *Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir.
12 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

13 When an act may or must be done within a specified time, the court may,
14 for good cause, extend the time: (A) with or without motion or notice if
15 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

16 “The proper procedure, when additional time for any purpose is needed, is to present to the
17 Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented
18 before the time then fixed for the purpose in question has expired).” *Canup v. Miss. Valley Barge Line*
19 *Co.*, 31 F.R.D. 282, 283 (D. Pa. 1962). The *Canup* Court explained that “the practicalities of life” (such
20 as an attorney’s “conflicting professional engagements” or personal commitments such as vacations,
21 family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court
22 deadline. *Id.* Extensions of time “usually are granted upon a showing of good cause, if timely made.”
23 *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D. Ohio 1947). The good cause standard considers a party’s
24 diligence in seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*,
25 975 F.2d 604, 609 (9th Cir. 1992).

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28 ¹ The leadership within this division is addressing this issue and, hopefully, the short-staffing will be resolved in
thirty (30) to sixty (60) days.

1 **III. DISCUSSION**

2 Defendant's opposition to Plaintiff's motion for leave is due today. Therefore, Defendant must
3 demonstrate good cause for the requested enlargement. Good cause exists to enlarge the time for him to
4 file their opposition, because his counsel is currently unable to complete the filing due to the manner in
5 which severe short-staffing in this bureau of the Office of the Attorney General has impacted counsel's
6 current workload. Defendant is seeks this enlargement in good faith and not for the purpose of any
7 unnecessary delay. Moreover, Defendant does not perceive any possible prejudice to Plaintiff if this
8 motion is granted. Therefore, Defendant requests to be allowed up to and including Friday, July 19,
9 2019, to file his opposition.

10 **IV. CONCLUSION**

11 As stated, Defendant needs additional time to file their opposition based on their counsel's
12 inability to timely complete the filing due to severe short-staffing in this division of the Office of the
13 Attorney General. Accordingly, Defendant respectfully requests this Honorable Court grant his motion
14 and allow him up to and including, Friday, July 19, 2019, to file his opposition.

15 DATED this 20th day of June, 2019.

16 AARON D. FORD
17 Attorney General

18 By:


19 GERRI LYNN HARDCASTLE, Bar No. 13142
20 Deputy Attorney General

21 *Attorneys for Defendant*

22 IT IS SO ORDERED.

23 DATED: June 21, 2019.

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26 UNITED STATES MAGISTRATE JUDGE
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